IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1489 OF 2005
WITH CIVIL APPLICATION NO.2121 OF 2005

Vilas Vasant Pawar. ..Appellant.
Vs.
Mangala Gopal Divekar. ..Respondent.

Mr.P.G.Karande for the Appellant.
Mr.V.P.Sawant for the Respondent.

CORAM: S.C. DHARMADHIKARI, J.
DATE : 08TH AUGUST, 2007

P.C.

1. Mr. Karande in support of his contention that substantial question of law arises in the second appeal invites my attention to the document which has been exhibited on record of the Trial Court as well as the Lower Appellate Court. He submits that "Visar Pavati" (Exh.34) is an agreement for sale of immovable property and is capable of being enforced. He submits that this document and its contents are misread and misinterpreted by the court below to mean that the terms therein are not certain and vague and no concluded contract has been arrived at between the parties.

2. The suit which was filed by the plaintiff has been dismissed by the Trial Court and its judgment has been upheld by the Lower Appellate Court. It has been concurrently observed that Exh.34 is a receipt on revenue stamp acknowledging the receipt of Rs.1001/-.

It further speaks of compliance of some formalities and legal requirements in order to develop the property. It also indicates that flat of 1200sq.ft. to be constructed on the property would be handed over, in exchange of ownership right, in favour of the Appellant-plaintiff. Such transaction cannot be said to be purchase of the immovable property. At the most the document records an arrangement which was to be finalised with regard to the development of the suit property. The said Visar Pavati does not contain any terms and conditions based upon which development was to take place leave alone by whom and in what manner so also within how much time.

3. In such circumstances, there is no error in holding that such a document, which merely records the intention of the parties to develop the property in future, is not specifically enforceable in the facts of this case. The concurrent findings of facts cannot be reappreciated by this court under Section-100 of the Code of Civil Procedure. The second appeal is devoid of merits and the same is accordingly, dismissed.

4. In view of the disposal of the second appeal, civil application does not survive and the same is accordingly, dismissed.

(S.C. DHARMADHIKARI, J.)